



**Montana Department
of
Fish, Wildlife & Parks**



Region Four P.O. Box 6610, Great Falls, MT. 59406 (406) 454-5840

January 28, 1999

Environmental Quality Council P.O. Box 201704 Helena MT 59620-1704
Dept. Of Environmental Quality P.O. Box 200901 Helena MT 59620-0901
Montana Historical Society, SHPO, P.O. Box 201202 Helena MT 59620-1202
Montana State Library P.O. Box 201800 Helena MT 59620-1800
Lewis and Clark Interpretive Center, P.O. Box 1806, Great Falls MT 59403-1806
Richard Hopkins, Bureau of Land Management 1101 15th St N. Great Falls MT 59401
Ben Rangel City-County Planning Board P.O. Box 5021 Great Falls MT 59403
Janet Ellis MT Audubon Council P.O. Box 924 Helena MT 59624
Montana Wildlife Federation P.O. Box 1175 Helena MT 59624
Recreation Trails Inc C/O Doug Wicks 2127 Fourth Ave S Great Falls MT 59405
Montana State Parks Assn. Paul Hickman, Director P.O. Box 699 Billings MT 59103
George Ochenski P.O. Box 689 Helena MT 59624
Cascade County Commissioners Courthouse Annex Great Falls MT 59401
Heritage Park Commission P.O. Box 1093 Great Falls MT 59403
Great Northern Outdoor Club Cody Cass - President 916 Fourth Ave Havre MT 59501
Montana Power Company Attn : John Jourdonais 40 East Broadway Butte MT 59707
Elvin Fitzhugh American Public Land Exchange 619 SW Higgins Suite P Missoula MT 59803
Randy Gray 2114 Third Ave N. Great Falls MT 59401
FWP - Director's Office
FWP - Parks Division
 Attention: Jeff Erikson
FWP - Wildlife Division
FWP - Fisheries Division
FWP - Lands Section
FWP - D&C Bureau
FWP - Legal Unit

Ladies and Gentlemen:

Description of Proposed Action:

FWP proposes to accept a fee title land donation, trail easement and conservation easement from the **Montana Power Company** of approximately 3,500 Acres on the north shore of the Missouri River. The **Trail and Conservation Easement** land is part of the sale of the Montana Power Company's hydroelectric facilities to Pennsylvania Power and Light. MPC would like to donate these easements to FWP. With this donation comes some obligation to manage these lands for recreation, manage and maintain the area in cooperation with the landowner to achieve both our agencies' recreation, preservation and cultural goals.

The Fee Title donation is of approximately 500 acres of land including 6 acres which compose the old Morony Townsite, and includes the Morony apartment building. Key features of this land are the townsite, the Sulphur Springs and over 1.5 miles of Missouri River Frontage. There are several sites potentially eligible for inclusion on the National Register of Historic Places, not including the Morony apartment which has not been assessed for its eligibility. Also associated with this land is a conservation easement with the USDA Forest Service. This easement mandates that the Forest Service

Cascade

1

2

3

manage the easement to provide recreational opportunities and maintain the historic, and cultural resources of this land. The Forest Service conservation easement on lands which will be owned by FWP creates an atmosphere where cooperation between the agencies is desirable and necessary. Immediately adjacent to these parcels are lands owned and managed by BLM. The BLM has expressed an interest in cooperating on a plan which utilizes their Lewis and Clark Bicentennial funding.

A necessary component of these donations is the development of the cooperative management plan. All parties involved must work together to effectively manage this land. FWP has received verbal commitments from the BLM, Forest Service, Recreational Trails Inc, to work together on the cooperative management plan to achieve all our goals.

Finding of No Significant Impact:

Based on the analysis in EA, I find the project as proposed to be the preferred alternative. The conservation and trails easements combined with the fee title donation will protect large areas of land from development which is in the best interest of FWP, and its partners.

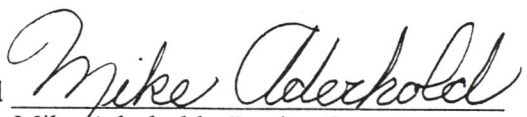
FWP has received the required reports from the State Historic Preservation Office and Travel Montana on historic and cultural clearances and tourism impacts respectively. Both agencies agree with the EA's analysis of no negative impacts.

Five comments were received by FWP on this Draft EA during the public comment period. Two verbal comments were internal and concerned minor adjustments to the language. One written comment (attached) was from the Forest Service and reiterated their needs as an easement owner on the proposed land donation. One verbal comment was received from the BLM which rendered minor changes to the EA and emphasized cooperation between all agencies. One written comment (attached) was from Recreational Trails Inc and was in support of the donation. The document was changed to reflect the Forest Service's concerns and to emphasize that management will be in cooperation with all partners including the Forest Service and BLM. The BLM, Forest Service and RTI expressed great interest in pursuing a cooperative approach to managing these properties. I expect land management issues to be dealt with in more detail during the development of a cooperative management plan. With these minor changes the Draft EA will be accepted as the Final EA.

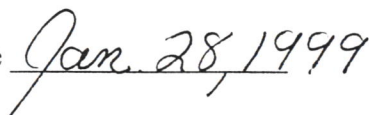
I have reviewed the EA and applicable laws, regulations, and policies and have determined that this action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared.

The final conservation easement, trail easement, and land donation as well as the final environmental assessment may be viewed at or obtained from The Department of Fish Wildlife and Parks, Region 4, Great Falls, MT. Please direct requests and questions to : North Shore Lands Project : Attn. Dan Smith P.O. Box 6610 Great Falls MT 59406 (406) 454-5840.

Signed


Mike Aderhold - Region Four Supervisor

Date





United States
Department of
Agriculture

Forest
Service

Lewis and Clark
National Historic Trail
Interpretive Center

4201 Giant Springs Road
P.O. Box 1806
Great Falls, MT 59403
406 727-8733
Fax 406 453-6157

File Code: 1500

Date: January 18, 1999

Dave Todd & Dan Smith
MDFWP
PO Box 6610
Great Falls, MT 59406

RE: Comments - EA for MPC North Shore Land Donation,
Trail Easement, and Conservation Easement

Dear Dave and Dan:

Thank you for sending a copy of the draft EA analyzing the effects of the proposed MPC land transactions with MDFWP. I am pleased to see the Montana Power Company seek ways to retain the north shore of the river in a natural condition. As we have all seen in recent years, tourism related to the Lewis and Clark Expedition is increasing with the approaching Bicentennial. Many travellers are wanting to experience the plains landscape of 200 years ago. This proposal will help protect the natural landscape for the coming millenium.

After thoroughly reviewing the document, I have several suggestions for additions that may or may not be applicable to the MEPA requirements.

Proposed Action (pages 4-5): It is a bit difficult to distinguish which lands are proposed for fee title donation, trail easement, and conservation easement. A description of the location of the lands, a table showing the acreage breakout or maps labelled (*Fee Title Donation, Trail Easement Location, Conservation Easement*) would be helpful. After reading the document, I remain unclear exactly where the trail easement is located.

The EA does not include a discussion about the conservation easement granted to the USDA Forest Service on June 24, 1991. This easement provided certain privileges and required responsibilities to the Lewis and Clark National Forest for longterm management of the trail to Sulfur Springs. How your proposal may affect the agreements set forth in the June 24, 1991 conservation easement is not addressed in the EA. Of critical importance is the need to cooperatively determine future management objectives for the trail and the trailhead. Since several public agencies are interested in the future of these lands, it would be in our mutual best interest to explore the most appropriate legal document to formally enjoin others in management decisions affecting the trailhead and trail to Sulfur Springs. The Bureau of Land Management, Forest Service, and MDFWP have a vested interest in the historic significance of these lands. Other public and private entities may also have an interest related to their agency/organization responsibilities (ie. Cascade County, Recreation Trails Incorporated, others?).




Other types of uses are permitted on some of the lands within the proposal - ie. **grazing**. It would be helpful to identify the potential impacts to these existing uses, and vice versa, the potential impacts these activities could have on the intent of the agreement(s). Will these uses be allowed to continue after the land transactions have occurred? How will these uses affect management of the lands into the future?

Also, it is difficult to comment about the potential impacts without more specific information about the conservation easement and trail easement. As an example, if the easements allow for the construction of trailside shelters for bicyclists or concessionaire activities, the Forest Service would have concern about the location of these facilities and their visibility from the south shore. If user trail fees are permitted along the trail(s) or at the trailhead, I would have concerns about the potential impacts to the USDA Forest Service conservation easement to Sulfur Springs, should a fee system be initiated. Not knowing whether these types of management decisions are even possible or being considered by the MDFWP, limits the scope of the comments I can provide at this time.

Again, thank you for allowing us to participate in review of the draft EA. If you have any comments related to this letter or the proposal, please feel free to contact me at 727-8733.

Sincerely,



Jane Weber
Center Director

cc: Rick Prausa and John Greer, L&C NF
Richard Hopkins, BLM
Speed Fitzhugh, American Public Land Exchange

January 18, 1999

Doug Wicks, Vice President
Recreational Trails, Inc.
P. O. Box 553
Great Falls, MT 59403

Dan Smith, Operations Specialist
Region 4, MDFWP, Parks Division
P. O. Box 6610
Great Falls, MT 59406



RE: MPC North Shore Land Donation & Conservation Easements

Dear Dan,

On behalf of the RTI Board I'm writing to express our strong support for the Proposed Action. This is clearly the most advantageous trails and open spaces action ever to take place in Great Falls.

The Montana Power Company is to be highly commended for donating the land and easements in advance of the new license and in advance of transfer of hydro facilities to P. P. & L.

This action will ensure that the property will remain free of residential development and will retain its unique, unspoiled native character. This action will ensure that the long-awaited North Shore Trail, conceived in public meetings and contained in the 1992 MPC license application, will someday be enjoyed by area residents, Lewis & Clark buffs, and visiting hikers and bicyclists from around the world.

We are pleased to have worked in partnership with MDFWP and MPC to develop key segments of River's Edge Trail and look forward to being able to participate and assist in the development of the North Shore Trail. We are ready to assist with labor for cleanup, fencing, revegetation and writing grants to help with development costs.

We fully concur with your analysis and comments in the EA. We strongly support a decision by the Fish, Wildlife & Parks Commission to accept the donation of land and easements from MPC. Public access to this scenic and historic area will add a new dimension to the River's Edge Trail. This proposed action fits Vision 2020 to a T. We applaud FWP for taking steps to protect this land as a legacy to be cherished by this and future generations.

Sincerely,

Doug Wicks, RTI



MONTANA HISTORICAL SOCIETY

HISTORIC PRESERVATION OFFICE

1410 8th Avenue ♦ PO Box 201202 ♦ Helena, MT 59620-1202 ♦ (406) 444-7715 ♦ FAX (406) 444-6575

January 25, 1999

DAN SMITH
FWP
POB 6610
GREAT FALLS MT 59406

RE: MPC North Shore Donation, Trail and Conservation Easement EA

Dear Dan:

Thanks for your request for comments. I am not sure why we did not respond to the EA earlier; it may be that our Historian did not see a request for eligibility or effect findings with respect to specific impacts to specific historic properties. At any rate, we apologize for the delay. Paul Putz has asked me to give you some quick opinions.

First, we agree that the preferred alternative has excellent potential to enhance and to protect numerous heritage values in the donation, trail easement and conservation easement areas, particularly with respect to the important visual setting. We also agree with statements made in the EA that there are a number of properties involved likely to be eligible for the National Register and that additional information may be required to resolve eligibility, and prudently discuss treatment (see EA pages 1 and 18). Paul believes that Jim Shive may have additional documentation, but if so, I do not think we have received it. At this point Rosillon's 1992 report constitutes our best record.

We have not done a file search to determine what inventory has occurred in areas of potential future development, e.g., new recreation and access projects, or areas that may be impacted by future operational changes in power generation and transmission. It may be the case that additional consideration will be warranted in some areas as specific projects are proposed.

In conclusion, we believe that the preferred alternative is in the best interests of preserving state Heritage values. It seems entirely appropriate to obtain the donation and easements now and defer Heritage assessments until those properties are secure.

Sincerely,

Stan Wilmoth, Ph.D.
HPO



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Great Falls Field Office

1101 15th Street North

Great Falls, Montana 59401

(406) 791-7700

IN REPLY TO:

8000

January 27, 1999

Dave Todd and Dan Smith
MDFWP
P. O. Box 6610
Great Falls, Mt. 59406

Dear Dave and Dan:

Thank you for bringing a copy of the draft Environmental Assessment (EA) for Montana Power Companies North Shore Land Donation, trail easement, and Conservation Easement by for our review. Our staff had few specific comments to the EA. BLM is no longer involved in any land donation or easements in the area. BLM does have some lands that border land that you will be acquiring in the future, and this should be mentioned in the EA.

Since we manage adjacent lands we feel strongly that a partnership between the Forest Service, Montana Power, Rivers Edge Trail, Montana Fish Wildlife and Parks, Cascade County, and others is essential to develop the site to its maximum potential for public use and enjoyment. BLM will commit to such a partnership for development of the site, trail, and County access to Sulfur Springs. Support for funding the partnership will be requested from the BLM Lewis and Clark Bicentennial emphasis, Transportation Enhancement Act (TEA-21), Land Management Highways (LMH), and other appropriate challenge cost sharing on going in our agency.

Sincerely,

Richard L. Hopkins
Field Office Manager

MONTANA ENVIRONMENTAL POLICY ACT (MEPA)/HB 495
TOURISM REPORT

Use this form when the Montana Environmental Policy Act review is initiated and when a park or fishing access site (FAS) improvement or development project meets the criteria directed by HB 495 and identified in 12.8.602(1) Administrative Rules of Montana (ARM). Submit this form for completion to:

Victoe Bjornberg, Tourism Development
Montana Promotion Division
Department of Commerce
1424 9th Avenue
Helena, MT 59620-0533

Project Name: Land Donation, Conservation Easement, and Trail Easement on Montana Power Land on North Shore of Missouri River NE of Great Falls.

Project Description: Fish Wildlife and Parks is proposing to accept a land donation, conservation Easement and Trail easement on the Montana Power Lands on the north Shore of the Missouri River Northeast of Great Falls. This will protect from residential and industrial development these lands in perpetuity. The lands under consideration are those covered by the FERC relicensing project 2088.

12.8.604(l) ARM:

- I. tourism is defined as the guidance or management of tourists (residents and nonresidents), who are the individuals who make tours for pleasure or education; and,
- ii. site development projects will be sent to the department of commerce with a request for review as to the impacts on tourism economy.

MEPA:

Human Environment. 11:

- c. Alteration of the quality or quantity of recreation/tourism opportunities and settings?

Considering (1) II under ARM rules and MEPA Human Environment 11, listed above, describe how this project will impact the tourism economy;

The land donation, conservation easement and trail easement on Montana Power Company land on the north shore of the Missouri River NE of Great Falls is another positive step for this community and region's tourism and recreation resources. From the MEPA/HB 495 analysis provided our office, we can see very little in the way of long term negative impacts, and much with regard to positive activities involving protecting and enhancing the values of existing resources as well as complementing many other ongoing and future activities planned for this unique section of Montana's Missouri River.

Signature

Victor A. Bjornby Jan. 19, 1999

Please return to P.O. Box 6610, Great Falls, 59406.

cc: Helena HB 495 Coordinator
Regional Park Manager
Park Operations Specialist

MEPA/NEPA/HB495 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. Type of Proposed State Action

FWP proposes to accept a fee title land donation, trail easement and conservation easement from the Montana Power Company of approximately 3,500 Acres on the north shore of the Missouri River. The Trail and Conservation Easement land is part of the sale of the Montana Power Company's hydroelectric facilities to Pennsylvania Power and Light. MPC would like to donate these easements to FWP. With this donation comes some obligation to manage these lands for recreation, manage and maintain the area in cooperation with the landowner to achieve both our agencies' recreation, preservation and cultural goals.

The Fee Title donation is of approximately 500 acres of land including 6 acres which compose the old Morony Townsite, and includes the Morony apartment building. Key features of this land are the townsite, the Sulphur Springs and over 1.5 miles of Missouri River Frontage. There are several sites potentially eligible for inclusion on the National Register of Historic Places, not including the Morony apartment which has not been assessed for its eligibility. Also associated with this land is a conservation easement with the USDA Forest Service. This easement mandates that the Forest Service manage the easement to provide recreational opportunities and maintain the historic, and cultural resources of this land. The Forest Service conservation easement on lands which will be owned by FWP creates an atmosphere where cooperation between the agencies is desirable and necessary. Immediately adjacent to these parcels are lands owned and managed by BLM. The BLM has expressed an interest in cooperating on a plan which utilizes their Lewis and Clark Bicentennial funding.

A necessary component of these donations is the development of the cooperative management plan. All parties involved must work together to effectively manage this land. FWP has received verbal commitments from the BLM, Forest Service, Recreational Trails Inc, to work together on the cooperative management plan to achieve all our goals.

2. Agency Authority for the Proposed Action

FWP has authority to provide development and access for public recreation.
23-2-101 MCA.

3. Name of Project

MPC North Shore Land Donation, Trail and Conservation Easements.

4. Name, Address and Phone Number of Project Sponsor (if other than the agency)

FWP - Parks Division
P.O. Box 6610
Great Falls MT 59406
(406)454-5840

Montana Power Company
40 East Broadway
Butte MT 59707
(406)888-2669

5. If Applicable:

Estimated Construction/Commencement Date 12/15/98
Estimated Completion Date 3/1/99.
Current Status of Project Design (% complete) 40%

6. Location Affected by Proposed Action (county, range and township)

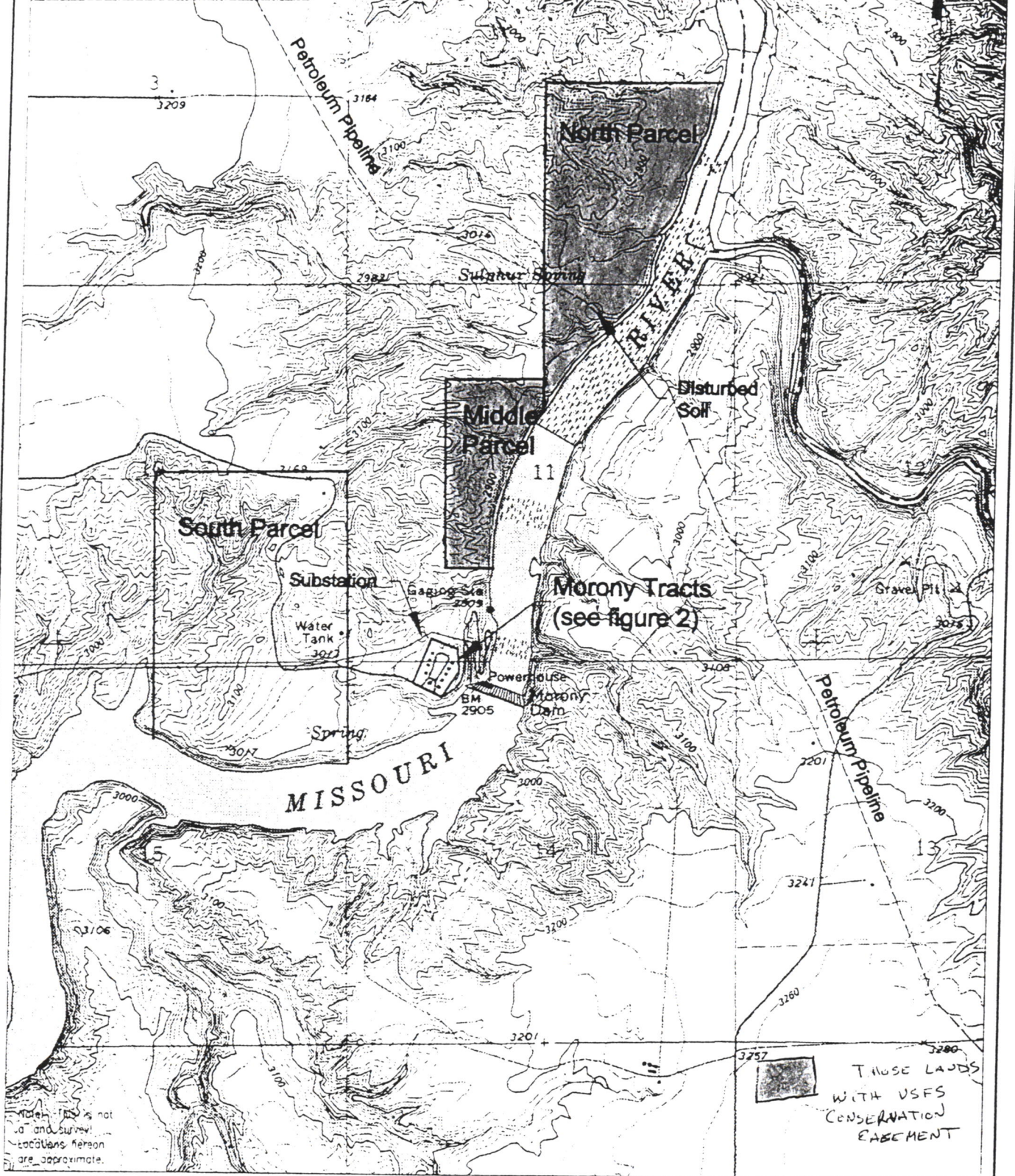
Cascade County: Portions of Sec 33, 28, 27, 26, 25, 24, R4E, T21N.
Portions of Sec 30, 19, 18, 17, 16, 21, 15, 14, 10, 11, 2, T21N, R5E.

7. **Project Size: Estimate the number of acres that would be directly affected that are currently:**

- (a) Developed:
residential 6 acres
industrial 0 acres
- (b) Open Space/Woodlands/Recreation 3494 acres
- (c) Wetlands/Riparian
Areas 0 acres
- (d) Floodplain 0 acres
- (e) Productive:
irrigated cropland 0 dry cropland 0 acres
forestry 0 acres
rangeland 0 acres
other 0 acres

8. **Map/site plan:** attach an original 8 1/2" x 11" or larger section of the most recent USGS 7.5' series topographic map showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.

Morony Dam Area Phase 1 Environmental Site Assessment



LAND & WATER CONSULTING, INC.
P.O. BOX 8254
Missoula, MT 59807

PROJECT NO: E98-158

DATE: Nov 98

LOCATION: Morony Dam

PROJECT MANAGER: C. Vandam

SCALE: 1"=2000'

FILENAME: vicinity

DRAWN BY: MB

CHECKED:

FIGURE: 1

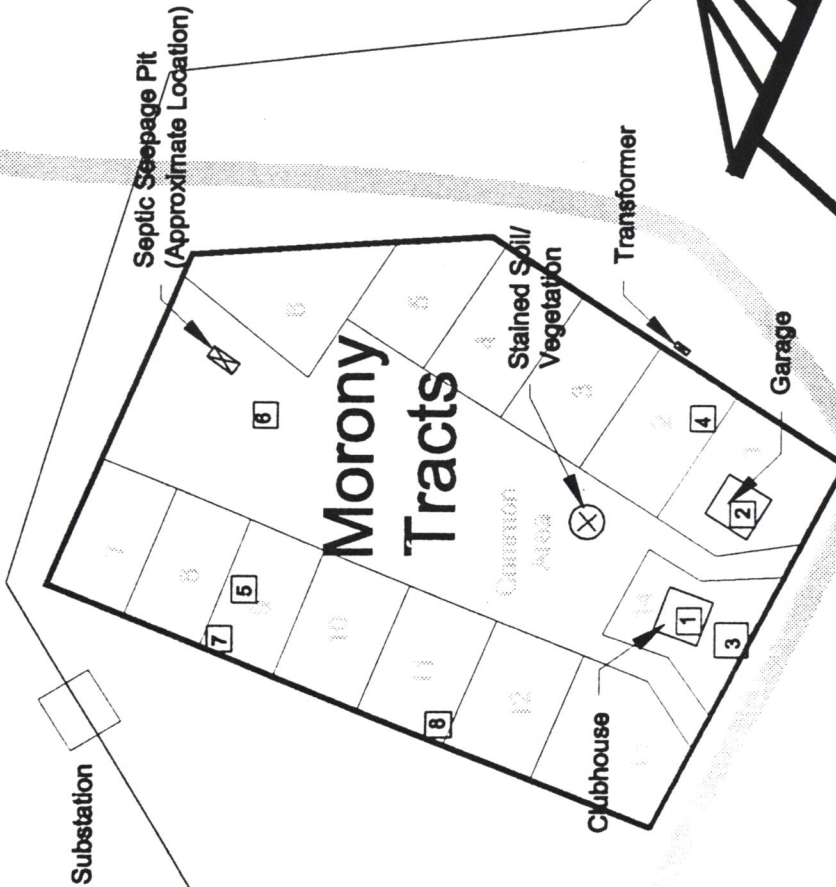
PROJECT NAME:

Morony Dam Area Phase 1

DRAWING TITLE:

Vicinity Map

Morony Dam Area Phase 1 Environmental Site Assessment



Remaining Structures (see section 2.3)

Note: This is not
a land survey!
Locations hereon
are approximate.

LAND & WATER CONSULTING, INC. P.O. BOX 6204 Missoula, MT 59807	PROJECT NO: E98-158	DATE: Nov 98	LOCATION: Morony Dam	PROJECT NAME: Morony Dam Phase 1
	PROJECT MANAGER: C. Vandam	SCALE: 1"=200'	FILENAME: siteplan	DRAWING TITLE: Morony Tracts
	DRAWN BY: MB	CHECKED:	FIGURE: 2	

9. Narrative Summary of the Proposed Action or Project including the Benefits and Purpose of the Proposed Action.

Conservation Easement.

The primary benefit of this Conservation Easement is to protect the North Shore of the Missouri from additional development in perpetuity. This will protect the viewshed of Giant Springs State Park and the Lewis and Clark Interpretive Center from additional intrusive development not related to power generation or transportation.

MPC has a budget for capital development, operations and maintenance associated with the reissuing of the Federal Energy Regulatory Commission (FERC) license and management of the facilities proposed for the North Shore. FWP is anticipated to manage this area for its recreational values but regardless of who is responsible for management of these lands the state desires to keep the area free of intrusive development.

Other benefits include increased tourism opportunities and their associated economic benefits, potential non-motorized recreational access on MPC lands and wildlife habitat benefits.

Trail Easement

The trail easement will assure non-motorized trail access for the River's Edge trail system on the North Shore. This will provide benefits of an extended trail system to the residents of Cascade County and their visitors. The existing River's Edge Trail has use of over 100,000 people per year and trail use is steadily rising. Trail usage on the North Shore is unknown but expected to be approximately 5,000 - 15,000 trail users per year.

Land Donation

The land donation is an outright donation of over 500 acres of land with associated improvements. There is an apartment building, garage, potential camping pads, and roads on a 6 acre parcel. The benefits to the public include recreational access to a over 1.5 mile section of river front, trail access to Sulphur Springs, perpetual cultural protection of this historically important area, tourism opportunities for those interested in a historic, primitive hiking experience and likelihood of increased camping opportunities

in an area with few public camping facilities. The public will also benefit by having two, possibly three, agencies with management responsibility in this area. The conservation easement owned by the Forest Service is on portions of this property and allows for cooperative management to achieve what neither of the agencies could achieve alone. With BLM land adjacent to these parcels additional cooperation is possible and probable.

All of these actions will need to be coordinated with the new landowner and FWP to assure equitable access while protecting the landowner's rights to manage this property. A necessary additional document will be the cooperative recreational management plan which will delineate the rights and responsibilities of each party and establish partnerships for management and maintenance of these properties. In this cooperative management plan the roles for the Forest Service, Recreational Trails Incorporated, The Bureau of Land Management, Cascade County, and the City of Great Falls will be discussed and defined.

10. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction.

(a) Permits:

<u>Agency Name</u>	<u>Permit</u>	<u>Date Filed/#</u>
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None

(b) Funding:

<u>Montana Power Company</u>	<u>100%</u>
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(c) Other Overlapping or Additional Jurisdictional Responsibilities:

<u>Agency Name</u>	<u>Type of Responsibility</u>
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USDA Forest Service	Conservation Easement on portions of the Fee Title lands
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USDI Bureau of Land Management	Adjacent landowner
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11. List of Agencies Consulted During Preparation of the EA:

FWP Region 4 - Parks, Fisheries, Wildlife and Enforcement Divisions, Great Falls MT

FWP Lands Office - Helena MT

FWP Legal Unit - Helena MT

Montana Power Company, Butte MT

State Historic Preservation Office, Helena MT

Lewis and Clark National Forest, Great Falls MT

Bureau of Land Management, Great Falls Area Field Office, Great Falls MT

Recreational Trails Incorporated, Great Falls MT

American Public Land Exchange - Missoula MT

PART II. ENVIRONMENTAL REVIEW

PHYSICAL ENVIRONMENT

1. <u>LAND RESOURCES</u> Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
▶ a. Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce productivity or fertility?		X				
▶ c. Destruction, covering or modification of any unique geologic or physical features?		X				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		X				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		X				
f. Other _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

◆ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

◆◆ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PHYSICAL ENVIRONMENT

2. <u>AIR</u> Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
► a. Emission of air pollutants or deterioration of ambient air quality? (also see 13 (c))		X				
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X				
e. ♦ For P-R/D-J projects, will the project result in any discharge which will conflict with federal or state air quality regs? (Also see 2a)		X				
f. Other _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Air Resources (Attach additional pages of narrative if needed):

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PHYSICAL ENVIRONMENT

3. WATER	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
Will the proposed action result in: ► a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		X				
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of flood water or other flows?		X				
d. Changes in the amount of surface water in any water body or creation of a new water body?		X				
e. Exposure of people or property to water related hazards such as flooding?		X				
f. Changes in the quality of groundwater?		X				
g. Changes in the quantity of groundwater?		X				
h. Increase in risk of contamination of surface or groundwater?		X				
i. Effects on any existing water right or reservation?		X				
j. Effects on other water users as a result of any alteration in surface or groundwater quality?		X				
k. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				
l. ♦♦For P-R/D-J, will the project affect a designated floodplain? (Also see 3c)		X				
m. ♦For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a)		X				
n. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Water Resources (Attach additional pages of narrative if needed):

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PHYSICAL ENVIRONMENT

4. <u>VEGETATION</u>	IMPACT [⊛]				Can Impact Be Mitigated [⊛]	Comment Index
	Will the proposed action result in:	Unknown [⊛]	None	Minor [⊛]	Potentially Significant	
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?			X			
b. Alteration of a plant community?			X			
c. Adverse effects on any unique, rare, threatened, or endangered species?			X			
d. Reduction in acreage or productivity of any agricultural land?			X			
e. Establishment or spread of noxious weeds?			X			a
f. ♦♦For P-R/D-J, will the project affect wetlands, or prime and unique farmland?			X			
g. Other: _____			X			

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. The landowner will maintain responsibility for all Noxious Weed Control efforts on all lands other than those immediately adjacent to the proposed developments which are strictly recreational in nature. Recreational developments which are also used as power generation service facilities will remain the responsibility of the Power Company.

FWP will take over all weed control activities on the donated fee title lands except those managed by the USDA Forest Service who retain weed control responsibilities on those lands.

⊛ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

PHYSICAL ENVIRONMENT

► 5. FISH/WILDLIFE	IMPACT [⊙]				Can Impact Be Mitigated [⊙]	Comment Index
	Unknown [⊙]	None	Minor [⊙]	Potentially Significant		
Will the proposed action result in:						
a. Deterioration of critical fish or wildlife habitat?		X				
b. Changes in the diversity or abundance of game animals or bird species?			X			a
c. Changes in the diversity or abundance of nongame species?			X			b
d. Introduction of new species into an area?		X				
e. Creation of a barrier to the migration or movement of animals?		X				
f. Adverse effects on any unique, rare, threatened, or endangered species?		X				
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?			X			a
h. ♦♦For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f)		X				
i. ♦For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d)		X				
j. Other: _____			X			

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. Increased recreational use of this land may have an effect on local populations of both game and non-game species. General recreation may have an effect on nesting of both game and non-game birds while local populations of deer and predators may have increased hunting pressure.
- b. Hunting pressure is anticipated to increase and local populations may fluctuate in response. Long term wildlife impacts should be positive due to protection of habitat.

⊙ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

♦ Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

3. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in:	IMPACT [⚙]				Can Impact Be Mitigated [⚙]	Comment Index
	Unknown [⚙]	None	Minor [⚙]	Potentially Significant		
a. Increases in existing noise levels?		X				
b. Exposure of people to serve or nuisance noise levels?		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		X				
d. Interference with radio or television reception and operation?		X				
e. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

⚙ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

7. LAND USE Will the proposed action result in:	IMPACT [⊙]				Can Impact Be Mitigated [⊙]	Comment Index
	Unknown [⊙]	None	Minor [⊙]	Potentially Significant		
a. Alteration of, or interference with the productivity or profitability of the existing land use of an area?		X				
b. Conflicted with a designated natural area or area of unusual scientific or educational importance?		X				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?			X			a
d. Adverse effects on or relocation of residences?		X				
e. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. An unknown amount of recreational activity already takes place on these lands through permission of the residents of the MPC Power generation facilities. These activities will need to adapt to the restrictions placed on the land by both the donation and the easements. This activity is not large and will result in only minor impacts. This use does not prohibit the proposed action.

The Missouri River Shooters Assn. currently runs a shooting range on the easement property. FWP does not wish to disturb their operation until viable alternative shooting locations can be obtained either by their search or by FWP's. If a suitable location can be found this operation may cease. As this has been the policy of the Montana Power Company since the inception of the MRSA lease this is not deemed a significant impact.

⊙ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

◆ Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

◆ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

◆◆ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan or create a need for a new plan?		X				
c. Creation of any human health hazard or potential hazard?			X			a
d. ♦For P-R/D-J, will any chemical toxicants be used? (Also see 8a)			X			b
e. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. The apartment building on the Morony Dam Townsite land will need remediation in order to become usable to the public. Hazmat issues exist with asbestos ceiling material and non-potable water supplies as examples. These issues will take significant funding to remediate. All issues relating to use of this building will be addressed in the cooperative management agreement. For the immediate future mothballing and closure of the building is warranted.
- b. The use of agrichemical pesticides to control noxious weeds is accepted and desired. All herbicides will be applied in accordance with the Region Four Noxious Weed Management Plan and under the supervision of a licenced pesticide applicator. Storage and mixing of these chemicals will be in accordance with standard operating procedures listed on labels and in the Weed Plan. The Forest Service currently has weed control responsibilities on portions of the proposed fee title donation. Weed control on those lands will conform with standard Forest Service rules concerning chemical weed control.

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

9. <u>COMMUNITY IMPACT</u> Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?			X			a
b. Alteration of the social structure of a community?		X				
c. Alteration of the level or distribution of employment or community or personal income?		X				
d. Changes in industrial or commercial activity?		X				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?			X			b
f. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. The land donation and easement is designed to eliminate residential and industrial development of this area while providing for recreational access to the area.
- b. Increased recreational use may lead to improvement needs on existing roads, and parking areas. Most or all of the on-site improvements are included in the FERC relicensing project. When the cooperative management plan for the conservation easement lands is developed a full environmental assessment will be written to assess the impacts of the recreational plan and developments. The BLM has identified funds (LMH funding) for improvements to roads leading to recreational lands under its management. These funds may be available for improving the roads leading to the Morony site.

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

◆ Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

◆◆ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

◆◆ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

10. PUBLIC SERVICES/TAXES/UTILITIES Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify: _____			X			a
b. Will the proposed action have an effect upon the local or state tax base and revenues?		X				
c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		X				
d. Will the proposed action result in increased used of any energy source?		X				
▶ e. Define projected revenue sources			X			b
▶ f. Define projected maintenance costs.			X			c
g. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. The effect of this land donation, trail easement, and conservation easement will have very minor impacts. When the cooperative management plan comes into effect and manages the conservation easement lands for recreation then increased governmental services will be needed. Montana Power and FERC have recognized this and have provided funding to pay for an increased level of service. However, service roads into the general area may need a higher level of maintenance in the future and major improvement is foreseeable. Funding for road improvement is dependant on many factors and will need to be addressed in a cooperative manner with federal, city, county, state and private concerns all contributing to those improvements.

The Fee title lands will be managed by FWP in a manner consistent with existing State Park policy and including the mandates of the conservation easement owned by the USDA Forest Service. If the BLM becomes an active partner then their needs and mandates will also become part of the cooperative management plan.

- b. Project capital funds for the FERC relicensing projects are provided by the Power Company. These funds are earmarked for the following projects. North Shore Natural Area - \$20,000; Trail - \$150,000; Sulphur Springs Trailhead - \$100,000; Black Eagle/Rainbow reservoir access sites - \$500,000. This totals

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

◆ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

◆◆ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

\$770,000 in one time, capital development money.

Project operations and maintenance funds are provided by the Power Company. These funds are earmarked for the following projects. North Shore Natural area - \$5,000; Trail - \$5,000; Sulphur Springs Trailhead - \$10,000; Black Eagle/Rainbow reservoir access sites - \$10,000; Morony River Access Site - \$5,000. Total: \$35,000 annually.

Both of these funding commitments by the Montana Power Company are in 1992 dollars and will be adjusted for inflation to current levels.

- c. Maintenance costs are estimated at approximately \$ 17,000. On-going major maintenance may be slightly higher.



Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)



Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.



Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in:	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X				
b. Alteration of the aesthetic character of a community or neighborhood?		X				
▶c. Alteration of the quality or quantity of recreational or tourism opportunities and settings? (Attach Tourism Report)			X			a
d. ♦For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c)		X				
e. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. This land donation and conservation easement in and of itself will have a negligible effect on tourism, however the management of this land as recreational will have a positive effect on tourism in Great Falls. See attached tourism report by Travel Montana.

The lands protected by the easement and land donation are those trod by Captain Meriwether Lewis on June 14 & 15, 1805 when he first "discovered" the Great Falls of the Missouri. Lewis and Clark tourism is expected to increase significantly in the next 10 years* and few places on the L&C Trail offer the ability to experience the land as the explorers first saw it. This land, while altered significantly, does offer views and landscapes very similar to those viewed by L&C.

* The Lewis and Clark National Historic Trail Interpretive Center showed visitation of 80,000 during its first six months of operation. The Bureau of Land Management reports an increase of 30% on the Wild and Scenic Missouri River. Much of this increase is attributable to interest in Lewis and Clark. (personal contact with Jane Weber - Lewis and Clark Interpretive Center and Clark Whitehead - BLM Recreation Manager, Lewistown MT)

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

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♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

12. CULTURAL/HISTORICAL RESOURCES	IMPACT [⊙]				Can Impact Be Mitigated [⊙]	Comment Index
	Unknown [⊙]	None	Minor [⊙]	Potentially Significant		
Will the proposed action result in:						
▶ a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance?		X				a
b. Physical change that would affect unique cultural values?		X				
c. Effects on existing religious or sacred uses of a site or area?		X				
d. ♦♦For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a)		X				
e. Other: _____		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- a. The lands and buildings of the Morony townsite are currently inadequately inventoried and cataloged. FWP will follow the procedures of the Montana Antiquities Act as well as the FWP cultural resource rules to establish the historical importance of these resources and will contact the State Historical Preservation Office for recommendations. As part of the assessment for this EA, Ellen Sievert was hired to perform an initial evaluation of the Morony apartment. Her assessment believes that the apartment is edible for the National Register of Historic Places. The lands of the conservation easement and donation have been initially surveyed by Montana Power. The land donation in and of itself will have no effect on the historic and cultural resources -- in fact by bringing this land under State control the historic and cultural resources will attain a level of protection which is currently lacking under private ownership.

⊙ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

- ♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.
- ♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

HUMAN ENVIRONMENT

13. SUMMARY EVALUATION OF SIGNIFICANCE	IMPACT [☆]				Can Impact Be Mitigated [☆]	Comment Index
	Unknown [☆]	None	Minor [☆]	Potentially Significant		
Will the proposed action, considered as a whole:						
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)			X			a
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		X				
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		X				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				b
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				c
f. ♦For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e)		X				
g. ♦♦For P-R/D-J, list any federal or state permits required.		X				

Narrative Description and Evaluation of the Cumulative and Secondary Effects on Land Resources (Attach additional pages of narrative if needed):

- This action must be viewed as a continuation of the FERC relicensing process. In the Relicensing Environmental Impact Statement many people were consulted and the recreational development was suggested. The conveyance of this conservation easement is above and beyond the requirements of the relicensing. This is a donation of considerable value which will protect these lands and make them available to the public in perpetuity.
- Again, taking the long view, this is an extension the FERC relicensing process. The future recreational developments will have a significant effect on the use of these lands. These developments are mitigation measures for certain aspects of running the hydroelectric generation facilities on the Missouri. Both the Montana Power Company and FERC have recognized the impacts and have provided funding for most of the development and maintenance of those developments. These mitigation measure only represent minor impacts on the existing environment.
- The conservation easement is unlikely to generate much controversy. FWP has received only two written comments and 2 internal comments during the 30 day comment period. Comments by cooperating agencies will be taken at any time prior to the decision to accept the donation.

☆ Include a narrative explanation under Part III describing the scope and level of impact. If the impact is unknown, explain why the unknown impact has not or can not be evaluated.

Include a narrative description addressing the items identified in 12.8.604-1a (ARM)

♦ Determine whether the described impact may result and respond on the checklist. Describe any minor or potentially significant impacts.

♦♦ Include a discussion about the issue in the EA narrative and include documentation if it will be useful.

1. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:

No Action.

Without action FWP will not accept this easement or land donation. MPC may elect to withdraw the proposal from consideration or it may offer the proposal to another party.

Project as proposed.

The preferred alternative. This option gives FWP a land donation and perpetual trail and conservation easements which will significantly protect thousands of acres of lands that are adjacent to the Missouri River North of Giant Springs State Park. If developed to industrial or residential use these lands will have a tremendous impact on the Park's viewshed and will significantly reduce the values that the park has tried to maintain over the last 25

2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

No mitigation is necessary.

3. Based on the significance criteria evaluated in this EA, is an EIS required? If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

An EIS is not required.

With no anticipated significant impacts to the environment or the public the EA is the appropriate level of analysis.

4. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

A public comment period of 31 days was held. This period began Friday December 18, 1998 and continued to Monday, January 18, 1999. No public meetings or hearing were held.

5. Duration of comment period if any.

31 days

6. Name, title, address and phone number of the Person(s) Responsible for Preparing the EA:

Dan Smith
Parks Operation Specialist
P.O. Box 6610
Great Falls, MT. 59406 (406)454-5840.

PART III. NARRATIVE EVALUATION AND COMMENT

With no significant impacts to the environment it is FWP's recommendation that this project proceed as quickly as possible.

This easement has been discussed in a forum consisting of representatives of the City of Great Falls, the US Forest Service, the BLM, Recreational Trails Inc, the Heritage Park Commission and other agencies and civic organizations. The consensus was that one agency should accept the lands and easement and that FWP is the logical choice to both hold the easement and manage the recreational improvements.

If managed as part of Giant Springs State Park this land donation, trail and conservation easements coupled with a cooperative management agreement with the Forest Service, BLM, Recreational Trails Inc, and others would significantly increase the size of Giant Springs State Park. This degree of protection by donation is unprecedented in Montana State Park history but is reflective of the relationship that Montana Power has fostered in the past with Montana State Parks especially at Giant Springs.

Great Falls has developed a variety of recreational facilities in the recent past including major developments at Giant Springs State Park with the Lewis and Clark Interpretive Center and River Edge Trail, as well as developments at Ulm Pishkun State Park and its new visitor center. The North Shore lands, properly managed, can help people understand Native Americans, early explorers, power generation, and homesteader pioneers by allowing them to walk on the ground that these forerunners trod upon, and to see what they saw. Protecting this land will provide a primitive experience in relatively natural landscapes.

This area can provide a part of the recreation spectrum which is currently missing in the Great Falls Area. It bridges the gap formed by the relatively heavy recreational development of Great Falls and the relatively sparse development of the Wild and Scenic portion of the Missouri river. When taken together these opportunities provide a full range of recreational activities within a hours drive of Great Falls.

Montana Power Company
Donated
Trail Easement

DRAFT 1/5/99

TRAIL EASEMENT

This Easement Agreement is made and entered into this ____ day of _____, 1998, by and between The Montana Power Company, 40 East Broadway, Butte, Montana 59701, ("MPC") and Montana Department of Fish, Wildlife and Parks, ("FWP").

RECITALS

- A. MPC is the owner of real property described in Exhibit A, attached and incorporated by reference, near or adjacent to the north shore of the Missouri River, between Black Eagle and Morony Dams.
- B. FWP wishes to participate in the construction and maintenance of a pedestrian and bicycle path and trailheads, known as the "North Shore Trail", a portion of which will cross the above described property;
- C. River's Edge Trail which includes the North Shore Trail is supported in phases of design, development, operations and maintenance through an existing Memorandum of Understanding among the City of Great Falls, Recreational Trails, Inc., and FWP. This trail easement is consistent with that MOU and serves as a bike/pedestrian connection between the Sulphur Springs Trailhead and County Road at Rainbow Dam property on the easterly edge of this easement.
- D. FWP wishes to obtain an easement ("Trail Easement") for the construction and maintenance of the section of the "North Shore Trail" that crosses MPC's land.
- E. The centerline of the trail was previously mapped and is depicted on and shown in Exhibit A.
- F. MPC desires to contribute to trail construction and management costs set forth by separate agreement ("North Shore Trail Management Agreement") (the "Management Agreement") and in accordance with funding commitments set forth in the FERC 2188 Project license.

In consideration of the payments, covenants, and agreements hereinafter recited, it is agreed as follows:

1. **Purpose of Easement.** MPC, grants and conveys to FWP a perpetual Trail Easement for the purpose of constructing, maintaining, and repairing a pedestrian and bicycle trail for the North Shore Trail for the use and benefit of the public on, over, and across the real property in Cascade County, Montana, described in Exhibit A.
2. **Dimensions and Improvements.**
 - a. The trail easement is thirty (30) feet in width and shall be approximately centered on the mapped location of the Trail Easement set forth in Exhibit A. Within this Trail Easement FWP may develop a primitive trail (gravel or dirt surface) to a width of no more than eight feet and place appropriate signs, rest benches, facilities to meet public health and safety requirements and other reasonably necessary trail improvements. The actual location of the trail and improvements will be agreed to by the parties in writing

prior to the construction. The trail as constructed will become the actual centerline of the easement.

- b. Trailheads will be constructed in the vicinity of Rainbow Shop and at the intersection of Ryan Road and the North Shore Trail.

3. **Limitations on Development.** MPC reserves the rights to continue administrative vehicular use of access on existing roadways and to construct, maintain, operate, remove, replace and reconstruct facilities related to its business operations on the easement area. However these rights shall not unreasonably interfere with the rights granted to FWP.
4. **Construction and Maintenance of Trails and Roads.** MPC agrees to grant FWP reasonable access across MPC lands to the Trail Easement during trail construction. FWP agrees to reclaim and restore any areas which may be disturbed by the construction. Any trail constructed on the property shall be constructed and maintained in accordance with FERC License 2188 terms and shall be made and kept as safe as possible for the intended uses. FWP, its cooperators and MPC shall bear all expenses of maintenance of any trail and associated facilities that are constructed on the subject property as set forth in the Management Agreement. FWP may use or authorize its agents and contractors to use motorized vehicles and equipment in the construction and maintenance of the trail.
5. **Maintenance of Trail Easement.** FWP, or its designee, in cooperation with MPC shall maintain and repair all trails constructed and developed within the scope of this Trail Easement as set forth by ~~separate agreement~~ the Management Agreement. Maintenance shall ensure that the use of the trails does not pose a hazard to users of the trail and ensure that the trail does not cause unnecessary damage to the subject property. As a part of its maintenance of the trail, FWP may control the vegetation within the easement area.
6. **Default.** If FWP fails to maintain or repair the trail through the Land as provided in this Trail Easement, or fails to abide by any other terms of this Trail Easement, MPC may give written notice to FWP specifying the purported default. FWP shall have thirty (30) days to cure the specified default. If FWP fails to cure the default within the time required, MPC may correct the deficiency and recover its reasonable costs for that maintenance or repair from FWP.
7. **Hold Harmless.** MPC shall hold harmless, indemnify and defend FWP and its employees, agents and contractors from against all liabilities, penalties, costs, losses, damages, expenses (including reasonable attorneys' fees and court costs incurred enforcing this indemnity obligation or defending a third party claim) causes of action, claims, demands, or judgments, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to occurring on or about the Land, regardless of cause, unless due to the negligence or willful misconduct of FWP or its agents, employees or contractors.

FWP similarly agrees to hold harmless, indemnify and defend MPC and their employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses (including reasonable attorneys' fees and court costs incurred enforcing this indemnity obligation or defending a third party claim) causes of action, claims, demands or judgments, including without limitation, reasonable attorneys' fees arising from or in any way connected with injury to or the

death of any person or physical damage to any property, resulting from any action, omission, condition or other matter related to FWP's exercise of its rights granted under this Easement, unless the action, or omission or condition is due to the negligence or willful misconduct of MPC or its employees, agents or contractors.

8. **Recordation.** FWP shall record this instrument or an abstract of it in a timely fashion in the official records of Cascade County, Montana, and may rerecord it at any time as may be required to preserve its rights in this Easement.

9. **Controlling Law.** The interpretation and performance of this Trail Easement is governed by the laws of the state of Montana.

10. **Construction.** Any general rule of construction to the contrary notwithstanding, this Trail Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Trail Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

11. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Trail Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Trail Easement, all of which are merged into this Trail Easement.

12. **No Forfeiture.** Nothing contained in this Trail Easement will result in a forfeiture or reversion of Landowner's reserved rights or title in any respect.

13. **Successors.** This Trail Easement shall be binding upon, and inure to the benefit of, the parties, their heirs, administrators, apportionees, successors and assigns, and shall continue as a servitude running in perpetuity with the Land.

14. **Termination of Rights and Obligations.** A party's rights and obligations under this Trail Easement terminate upon transfer of the party's interest in the Trail Easement or Land, except that liability for acts or omissions occurring prior to transfer shall survive the transfer.

15. **Severability.** If any provision of this Trail Easement is found to be invalid, the remainder of the provisions of this Trail Easement shall not be affected.

16. **Amendment.** This Easement may be amended from time to time by mutual consent of the parties.

17. **Notices.** Any notice, request, or demand provided for in this Easement shall be confirmed in writing, unless otherwise noted, and shall be made as specified below: a notice sent by facsimile transmission shall be deemed received by the close of the business day on which such notice was transmitted or such earlier time as confirmed by the receiving party and notice by overnight mail or courier shall be deemed to have been received two (2) business days after it was sent or such earlier time as is confirmed by the receiving party unless it confirms a prior verbal communication in which case any such notice shall be deemed received on the day sent.

THE MONTANA POWER COMPANY

By: _____

Its: _____

By: _____

Its: _____

STATE OF MONTANA)
)ss
County of _____)

 This instrument was acknowledged before me on _____, by
_____ and _____, as _____ and
_____ of The Montana Power Company.

(SEAL)

Notary Public for the State of Montana
Residing at _____
My Commission expires _____

Accepted by Montana Department of Fish, Wildlife and Parks

By: _____
Patrick J. Graham, Director

STATE OF MONTANA)
)ss
County of Lewis and Clark)

This instrument was acknowledged before me on _____, 1998, by Patrick J. Graham, as Director of Montana Department of Fish, Wildlife and Parks.

(SEAL)

Notary Public for the State of Montana
Residing at _____
My Commission expires _____

DRAFT 1/5/99

EXHIBIT A

MPC North Shore property boundary map with trail location and FERC property boundary.

Montana Power Company
Donated
Conservation Easement

RECEIVED JAN 20 1999

DRAFT 1/14/99

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is made this _____ day of _____, 1998, by **THE MONTANA POWER COMPANY**, whose address is 40 East Broadway, Butte, MT 59710, (Landowner), to the **MONTANA DEPARTMENT OF FISH WILDLIFE AND PARKS**, whose address is 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701 (Department).

I. RECITALS

A. The Landowner owns real property in Cascade County, Montana (the "Land"), described in Exhibit A, attached hereto and incorporated herein by this reference, with open space values worthy of perpetual conservation, and on which the Department desires to obtain a conservation easement.

B. The Landowner's Land contains approximately ten miles of frontage on the Missouri River, which is a river with important scenic resources.

C. The Landowner wishes to protect and conserve the Land so as to protect and enhance the open space resources where consistent with its hydropower production and power transmission activities as described in, but not limited to, the Landowner's application for a new Federal Energy Regulatory Commission (FERC) Project # 2188 Missouri-Madison license.

D. The Landowner and the Department have reached an agreement, as reflected below, that will provide protection of the Land, while allowing the Landowner to pursue its business opportunities. It is Landowner's wish to implement a policy to consolidate power lines and substations in certain areas to the extent practicable to reduce visual impacts when siting, constructing, replacing, and upgrading facilities. The quality of the visual resource will be a primary concern.

II. GRANT

In consideration of the sums paid by the Department, and in further consideration of the recitals, mutual covenants and terms contained in this Easement and pursuant to the Open-Space and Voluntary Conservation Easement Act, §76-6-101, et seq.; §§87-1-209 and 87-1-605; and Title 70, chapter 17, MCA, Landowner voluntarily grants and conveys to the Department and the Department accepts a conservation easement in perpetuity, consisting of the following rights and restrictions over and across the Land.

III. PURPOSE

The purposes of this Easement are to preserve and protect in perpetuity the open space values of the Land. The Landowner and the Department intend that this Easement will limit the use of the Land to directly related land management activities necessary to accomplish the purposes of this Easement and other activities allowed in this Easement.

IV. DEPARTMENT'S RIGHTS

The rights conveyed to the Department by this Easement are:

1. The right to enforce the provisions and purposes of this Easement.
2. The right to prevent any activity on or use of the Land that is inconsistent with this Easement.
3. The right to require the restoration of any areas or features of the Land that may be damaged by inconsistent activity or use by the Landowner , as specified in this Easement.
4. The right to review and comment on the quality of the visual resource as may be impacted by the Landowner's exercise of the rights retained herein. However, the Department's right to review and comment shall not prohibit the Landowner from exercising its rights. The Department will be notified in writing in advance of Landowner's intended exercise of its rights. The Department shall respond with its comments within ~~15~~ 30 days of Landowner's notice. Lack of response shall be interpreted as the Department having no comment.

V. LANDOWNER'S RESERVED RIGHTS

Landowner reserves to itself, its successors, and assigns, all rights accruing from its ownership of the Land, including the right to engage in or permit others to engage in all uses of the land that are not expressly prohibited or restricted by this Easement and are not inconsistent with the purposes of this easement. Without limiting the generality of the previous statement and subject to the restrictions on Landowner's land and activities in this easement, Landowner reserves to itself, its successors and assigns the following rights:

1. The right to regulate public use of the Land at all times.
2. The right to continued access over and across the Land.

3. The right to restrict access during periods of construction related activities and for public safety.
4. The right to change the Project 2188 boundary /(ies) as approved by FERC or its successor.
5. The right to operate, maintain, replace, repair, upgrade, remove and construct electric, gas and telephone transmission and distribution lines and related facilities including but not limited to overhead and underground lines, substations, access roads and communication lines and facilities.
6. The right to remove gravel and fill material for power generation and transmission related activities at sites designated on Exhibit B unless otherwise agreed to in writing by the parties.
7. The right to operate, maintain, replace, repair, upgrade, remove and construct hydroelectric plant sites and related facilities, including, but not limited to, offices, warehouses, and shop buildings.
8. The right to maintain and use burn sites for power generation and transmission related activities at sites designated on Exhibit B unless otherwise agreed to in writing by the parties.
9. The right to conduct activities on the Land related to and necessary for the operation of the hydropower generating and transmission facilities.
10. The right to fence, gate and post with signs.
11. The right to grant third party access including but not limited to the right to continue the grant of existing use to the Missouri River Shooters Association, the Cascade County Conservation District conservation area, Sheffels Farms lease, public hunting according to a management plan developed in cooperation with the Department, and to grant a public trail access easement. Any additional preferential third party access uses are prohibited with the exception of activities directly related to the right to operate, maintain, replace, repair, upgrade, remove and construct electric, gas and telephone transmission and distribution lines and related facilities including but not limited to overhead and underground lines, substations, access roads and communication lines and facilities.
12. The right to respond to emergency situations as necessary without ~~to~~ prior to consultation with the Department.

VI. RESTRICTIONS ON LANDOWNER'S LAND AND ACTIVITIES

Any activity on or use of the Land that is inconsistent with the purposes of this Easement is prohibited. Without limiting this general prohibition, the following activities and uses are expressly prohibited or restricted.

1. The legal or de facto subdivision of the Land for residential use or residential development purpose is prohibited. For purposes of this Easement, a subdivision means a division of land or land so divided that creates one or more parcels, in order that the title to or possession of the parcels may be sold, rented, leased or otherwise conveyed in any manner for residential use, and includes any resubdivision and a condominium or area, regardless of its size, that provides or will provide multiple spaces for residential use, recreational camping vehicles, or mobile homes. The prohibitions against subdivision contained in this paragraph shall also apply to the sale, rental, lease or other conveyance of the Land or any portion of the Land that was divided or subdivided in parcels or tracts of record prior to the grant of this Easement to the Department. However, the Landowner shall have the right to ~~subdivide~~ divide for the purposes of exercising its rights reserved in this Easement as specified in Paragraph V.
2. Cultivation or farming on the Land is prohibited.
3. The cutting, burning, chemical treatment or other manipulation or killing or removal of woody vegetation is prohibited, except as approved by the Department, or except incidental to the exercise of Landowner's retained rights. The Department's approval under this paragraph will be based on reasonable measures being undertaken to prevent damage to woody vegetation, and to save woody vegetation for replanting on the Land.
4. The exploration of or development and extraction of minerals, coal, bentonite, hydrocarbons, soils or other materials by any surface mining method on the Land is prohibited, except as reserved under Landowner's ~~retained~~ Reserved Rights as specified in Paragraph V.
5. The construction or placement of any structure, building or improvements of any kind on the Land is prohibited, other than as expressly allowed in this Easement.
6. The dumping or other disposal of wastes, refuse and debris on the Land is prohibited, except for burning combustible materials as allowed by state law at historic or existing burn sites, and except for placing of material incidental to activities expressly allowed in this Easement.

7. The use of the Land in connection with a game farm, game bird farm, shooting preserve, fur farm, zoo or menagerie is prohibited. This prohibition does not apply to domestic livestock.

— Grazing leases are OK?!? I prefer to manage grazing under the cooperative request plan only! or similar to the FS Easement.

VII. NOTICES

Any notice, request or demand provided for in this Easement shall be confirmed in writing, unless otherwise noted, and shall be made as specified below: a notice sent by facsimile transmission shall be deemed received by the close of the business day on which such notice was transmitted or such earlier time as confirmed by the receiving party and notice by overnight mail or courier shall be deemed to have been received two (2) business days after it was sent or such earlier time as is confirmed by the receiving party unless it confirms a prior verbal communication in which case any such notice shall be deemed received on the day sent.

VIII. REMEDIES FOR UNAUTHORIZED USES AND PRACTICES

If the Landowner or the Department determines that the other has violated the terms of this Easement or that a violation is threatened, the party shall give written notice to the other of the violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Land resulting from any use or activity inconsistent with the terms of this Easement, to restore the portion of the Land so damaged. If the party in violation fails to cure the violation within thirty (30) days after receipt of notice, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally corrected, the Landowner or Department, as the case may be, may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, by temporary or permanent injunction, and to recover any damages to which it may be entitled for violation of the terms of this Easement.

If either party, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage, or to enforce its rights under this Easement, the party may pursue its remedies under this paragraph without prior notice to the other or without waiting for the period provided for cure to expire.

IX. HOLD HARMLESS

The Landowner shall hold harmless, indemnify and defend the Department and its employees, agents and contractors from against all liabilities, penalties, costs, losses, damages, expenses (including reasonable attorneys' fees and court costs incurred enforcing this indemnity obligation or defending a third party claim) causes of action, claims, demands, or judgments, arising from or in any way connected with injury to or the death of any person, or physical damage to any

property, resulting from any act, omission, condition or other matter related to occurring on or about the Land, regardless of cause, unless due to the negligence or willful misconduct of the Department or its agents, employees or contractors.

The Department similarly agrees to hold harmless, indemnify and defend the Landowner and their employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses (including reasonable attorneys' fees and court costs incurred enforcing this indemnity obligation or defending a third party claim) causes of action, claims, demands or judgments, including without limitation, reasonable attorneys' fees arising from or in any way connected with injury to or the death of any person or physical damage to any property, resulting from any action, omission, condition or other matter related to Department's exercise of its rights granted under this Easement, unless the action, or omission or condition is due to the negligence or willful misconduct of the Landowner or his employees, agents or contractors.

X. RECORDATION

The Department shall record this instrument or an abstract of it in a timely fashion in the official records of Cascade County, Montana, and may rerecord it at any time as may be required to preserve its rights in this Easement.

XI. GENERAL PROVISIONS

1. Controlling Law. The interpretation and performance of this Easement is governed by the laws of the state of Montana.
2. Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of §76-6-101, et seq., and Title 70, MCA. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged into this Easement.
4. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Landowner's title in any respect.
5. Successors. This Easement shall be binding upon, and inure to the benefit of, the parties, their heirs, administrators, apportionees, successors and assigns, and shall continue as a servitude running in perpetuity with the Land.

6. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Land, except that liability for acts or omissions occurring prior to transfer shall survive the transfer.
7. Severability. If any provision of this Easement is found to be invalid, the remainder of the provisions of this Easement shall not be affected.
8. Amendment. This Easement may be amended from time to time by mutual consent of the parties.

LANDOWNER

By _____

By _____

MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

By _____
Patrick J. Graham, Director

STATE OF _____)
)ss:
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____,
1998, by _____.

(SEAL)

Notary Public for the State of _____
Residing at _____
My Commission Expires _____

DRAFT 1/14/99

STATE OF _____)
)ss:
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____,
1998, by _____.

(SEAL)

Notary Public for the State of _____
Residing at _____
My Commission Expires _____

STATE OF MONTANA)
)ss:
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____,
1998, by PATRICK J. GRAHAM, as director of the Montana Department of Fish, Wildlife and
Parks.

(SEAL)

Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

DRAFT 1/14/99

EXHIBIT "A"

Legal Description of Land covered by the easement

Existing Forest Service
Conservation Easement

REEL

237

DOCUMENT

774

AGREEMENT FOR CORRECTION OF CONSERVATION EASEMENT

WHEREAS, The Montana Power Company, a Montana Corporation, 40 East Broadway, Butte, Montana, conveyed to the United States of America, whose post office address is Washington, D.C. 20013, a conservation easement over and across Lots 6 and 7 and the W1/2SE1/4 in Section 2, and Lots 2, 3 and 6 in Section 11, T.21N., R.5E., P.M.MT., by deed dated June 24, 1991, recorded June 26, 1991 in Reel 228, Document No. 1344, records of Cascade County, State of Montana, and,

WHEREAS, the easement contains an error which, if not corrected, will prevent that document from reflecting the true agreement of the parties in all respects.

NOW THEREFORE, the United States of America and The Montana Power Company, a Montana Corporation, mutually agree to the correction of the aforementioned easement as follows:

The expiration date of the Commission of Notary Public, Marilyn K. Woods, shown on said document as January 31, 1991, is hereby corrected to read January 31, 1992.

Except as herein amended, all terms and conditions of the aforesaid Easement of June 24, 1991 are confirmed and shall remain in full force and effect.

DATED this 22nd day of May, 1992.

UNITED STATES OF AMERICA

By

Charles E. Wassinger
Charles E. Wassinger, Director
Lands and Minerals
United States Department of Agriculture

THE MONTANA POWER COMPANY

Attest:

William L. DuPont
Its Assistant Secretary

By

C. J. Milder
Its Vice President - Administration

Approved Date	
FILED	
CONF	mjm 1/30/92
DESCR	mjm 1/30/92

ACKNOWLEDGMENT

STATE OF MONTANA)
) ss.
COUNTY OF MISSOULA)

On the 22nd day of May, 1992, before me, a Notary Public within and for said State, personally appeared Charles E. Wassenger, Director of Lands and Minerals, Forest Service, Department of Agriculture, and the same person who executed the within and foregoing instrument, who, being by me duly sworn according to law, did say that he is the Director of Lands and Minerals, Forest Service, Department of Agriculture, and that said instrument was signed in behalf of the United States of America by its authority duly given and by him delivered as and for its act and deed. And he did further acknowledge that he executed said instrument as the free act and deed of the United States of America, for the purposes and consideration herein mentioned and set forth, and I do hereby so certify.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



[Signature]
Notary Public for the State of Montana
Residing at Missoula, MT
My commission expires 5-16-95

INDEXED
RECORDED

RECORDED MAY 26 1992
TIME 1:15 P
DOCUMENT NO. _____

JOE TROPILA
Clerk and Recorder
Cascade County, Montana

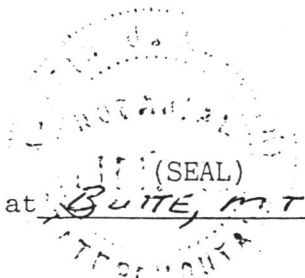
By [Signature] Deputy

ACKNOWLEDGEMENT

STATE OF MONTANA)
) ss.
COUNTY OF Silver Bow)

On this 30th day of January, 1992, before me, a Notary Public in and for the State of Montana, personally appeared C. J. GILDER, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
Notary Public for the State of Montana
Residing _____
My commission expires 7/31/93

at BOULDER, MT

CONSERVATION EASEMENT

THIS GRANT OF EASEMENT is made this 24th day of June, 1991, by The Montana Power Company, a Montana corporation, 40 East Broadway, Butte, Montana ("Grantor" or "MPC"), to the United States of America ("Grantee" or "United States"), by and through the Forest Service, Department of Agriculture.

RECITALS

1. WHEREAS, Public Law 100-552 authorized the Secretary of Agriculture acting through the Forest Service to establish the Lewis and Clark National Historic Trail Interpretive Center to further the public's understanding and provide appropriate interpretation of the scope and accomplishments of the Lewis and Clark Expedition; and
2. WHEREAS, Public Law 96-515, the National Historic Preservation Act Amendment of 1966, (80 Stat. 915, 16 U.S.C 470), the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1716), Public Law 96-95, the Archeological Resources Protection Act of 1979 (16 U.S.C. 470), and other Acts were enacted to protect historic properties and provide for the enhancement of scenic, cultural, recreational and natural resources; and
3. WHEREAS, the Grantor is the owner of a certain tract of land, known locally as the Sulphur Springs site, which lies adjacent to the Missouri River and which possesses historical significance because of association with the Lewis and Clark Expedition; and
4. WHEREAS, after negotiations and discussions, the Grantor hereby agrees to grant an easement to the United States over and across the Sulphur Springs site.

NOW, THEREFORE, for valuable consideration, receipt of which is acknowledged, Grantor grants an easement to the United States under the following terms and conditions:

1. Grant of Easement

Subject to Grantors right of termination (paragraph 6.), Grantor hereby grants to the United States an easement over and across the following described real property (approximately 181 acres) located in Cascade County, Montana (See Exhibit A attached).

Township 21 North, Range 5 East, P.M.M.

Section 2: W $\frac{1}{2}$ of SE $\frac{1}{4}$, Lots 6 and 7

Section 11: Lots 2, 3 and 6

RECORDED
INDEXED
JUN 26 1991
TIME 8:30 A.M.
DOCUMENT NO.

JOE TROPILA
Clerk and Recorder
Cascade County, Montana

By R. Jent
Deputy

2. Use by United States

The United States may use the easement for the following purposes:

- A. Identify, preserve and protect the integrity of historic values at the Sulphur Springs site and to prevent any acts that may diminish the integrity of the site's location, setting, feeling, or association.
- B. Conduct archaeological and historical research within the easement;
- C. Restore historic and archaeological features of the Sulphur Springs site;
- D. Construct facilities in consultation with Grantor for the purpose of providing public access and accommodating other public needs, including the right to construct or install:

- (i) Trails and associated structures for public access within the easement. Trails shall be limited to non-motorized public use except as Grantor otherwise authorizes. This prohibition shall not prevent the United States from using motorized vehicles for its administrative purposes. The United States shall ensure these facilities are constructed and maintained in a safe, sound manner;
- (ii) Toilet facilities;
- (iii) Appropriate signage and other associated interpretive facilities;
- (iv) Facilities or structures needed to provide for public health and safety; and
- (v) Perimeter fences.

3. United States' Obligations

The United States shall, at its expense, operate, maintain and manage the entire easement area and all facilities it constructs or develops so they are safe for public use. Further, the United States shall abide by all statutes, laws, rules and regulations governing use of the property, including all weed control laws and regulations.

4. Inconsistent Uses

The following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are inconsistent with the purpose of this conservation easement, and shall be prohibited:

- A. Any change disturbance or alteration to the Sulphur Springs site, except changes resulting from restoration of the historic integrity or from construction of facilities that will allow access to and public enjoyment of the site;
- B. Any commercial or industrial use;
- C. The cross-fencing of Grantor's land or the grazing of horses or any other livestock;
- D. Farming, horticultural, game farming or feedlot use;
- E. Vehicular traffic across the easement, except as may temporarily be needed to construct necessary trails or roads;
- F. The construction of any roads or trails, except those mutually agreed upon;
- G. The removal of any trees from Grantor's land, living or dead, unless determined to be a threat to public safety or integrity of the historic site;
- H. The dumping of or other disposal of refuse;
- I. Public camping;
- J. The division, subdivision or de facto subdivision of the Grantor's land, unless such division is to facilitate conveyance of all or a portion of the property to a public body for furtherance of the purpose of this conservation easement;
- K. The exploration for or extraction of minerals, hydrocarbons, or soils or other materials on or below the surface of the Grantors land.

5. Use by Grantor

Grantor reserves the right to do all those things over, across, and under the easement that do not unreasonably interfere with the rights granted to the United States. These rights shall include, but are not limited to, the following:

- A. The right to alter the level of the Missouri River as Grantor, in its sole discretion, deems appropriate;
- B. The right to maintain, repair, replace and remove the existing natural gas pipelines;
- C. The right to maintain and repair all existing fences;
- D. The right to control predatory and problem animals through the use of selective control techniques. All measures used for such control shall be limited to specific animals that have caused damage to livestock or threatened human life;
- E. The right to locate, operate, maintain, repair, replace, upgrade and remove any utility lines;
- F. The right to sell, transfer or mortgage the property subject to the easement; and

G. The right to enter the easement area for any reason and to ensure that the United States adheres to the terms and conditions of this grant.

6. Events of Default

The United States shall be in default under this Agreement if it fails to perform or observe any covenant, condition or agreement for a period of 1 year after written notice to the United States, specifying such default. Upon the expiration of the 1 year period and if the United States has not remedied its default, MPC, at its option, may terminate this easement and the United States shall surrender possession of the property immediately and peaceably. In addition, the United States shall execute all instruments as MPC may require to evidence of record termination of this easement. As an alternative remedy, MPC may specifically enforce the provisions of this Agreement or pursue any other available legal or equitable remedy.

No remedy herein conferred upon or reserved to MPC is intended to be exclusive of any other remedy provided by law, but each shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity.

7. Termination

Upon determination by both Grantor and Grantee that this easement is no longer needed for the purposes stated herein, the easement may be terminated. The termination shall be evidenced by a statement in recordable form signed by the Grantor and Grantee, their successors or assigns.

8. Miscellaneous

The United States and Grantor shall have the right to make surveys, plats, take photographs and prepare such other documentation as may be necessary or desirable to administer the provisions of this Agreement. Any such map, plat or other suitable document may be recorded at the United States or Grantor's discretion.

9. Indemnification

The United States, acting by and through the Forest Service, USDA, hereby agrees to bear any and all costs and liabilities of any kind related to the exercise of its rights under this Conservation Easement to the extent it may legally do so under the Federal Tort Claims Act (FTCA), 28 U.S.C. 2671 et seq, or any other applicable act wherein Congress has specifically waived the sovereign immunity of the United States.

10. Resolution of Disputes
To the best of their ability, the parties hereto agree that any ambiguities regarding the terms and conditions of this easement shall be resolved in a manner which best effects overall conservation and public purposes of Public Law 96-515.
11. Entire Agreement
This Agreement contains the entire agreement and understanding of the parties, and supersedes any and all prior negotiations and understandings. This Agreement shall not be modified, amended or changed in any respect except by written documents signed by all parties.
12. Interpretation
If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall nonetheless be effective.
13. Headings
Headings used herein are for convenience only, and shall not be construed as a part of this Agreement or as a limitation on the scope of the particular paragraphs to which they refer.
14. Assignment
United States shall not assign or apportion this easement without first obtaining the express written consent of Grantor.
15. Binding Effect
If an assignment or apportionment is approved pursuant to the above paragraph, this Agreement shall be binding upon and shall inure to the successors and assigns of the parties.

In witness whereof, the parties have executed this easement the day and year above written.

Attest:

Richard L. DuPont
Its Assistant Secretary

The Montana Power Company

BY *C. J. Gilder*

Its Vice President for Admin.

Approved	Date
FORM	
MPM	6/10/91
CONF.	
MPM	6/21/91
DESR.	
MPM	6/21/91

United States of America
Department of Agriculture
Forest Service

John W. Myer
Its Regional Forester
Northern Region

STATE OF MONTANA)
County of Cascade) ss.

ON THIS 14th day of June, 1991, before, the undersigned, a Notary Public in and for the State of Montana, personally appeared John W. Mumma, known to me to be the Regional Forester, Forest Service, R1 of The United States of America, Department of Agriculture, Forest Service, the agency that executed the within instrument and acknowledged to me that he executed the within instrument for and on behalf of that agency.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Marilyn K. Woods
Notary Public for the State of Montana
Residing at Butte, Montana
mkw Great Falls
My Commission Expires: January 31, 1991

(NOTARIAL SEAL)

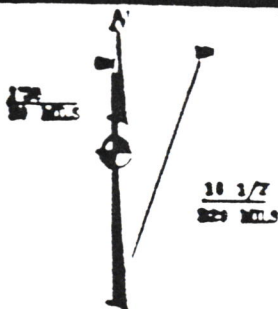
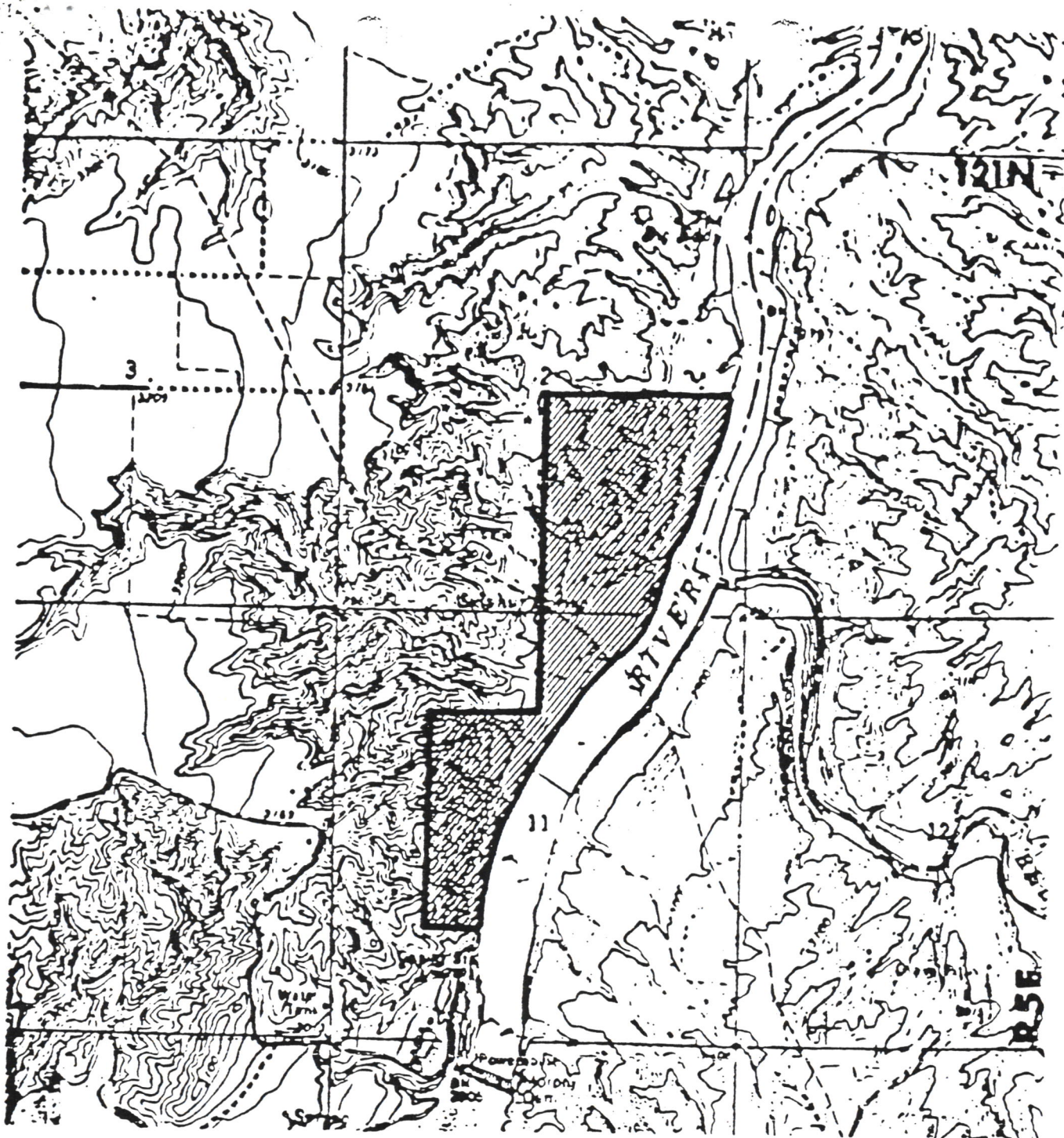
STATE OF MONTANA)
County of Silver Bow) ss.

ON THIS 24th day of June, 1991, before me, a Notary Public for the State of Montana, personally appeared C. J. GILDER, known to me to be the Vice President for Administration of THE MONTANA POWER COMPANY, the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

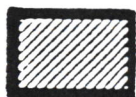
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Martin J. McCarthy
Notary Public for the State of Montana
Residing at Butte, Montana

My Commission Expires: 7/31/93

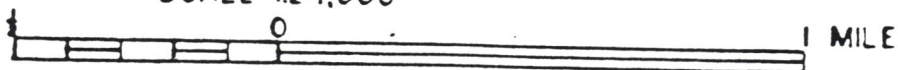


LEGEND



PROPOSED EASEMENT

SCALE 1:24,000



CONTOUR INTERVAL 20 FEET

UTM GRID AND D80
AGNETIC NORTH DECLINATION

EXHIBIT A

MONTANA POWER CONSERVATION EASEMENT